



[6450-01-P]

DEPARTMENT OF ENERGY

10 CFR Part 430

[Docket No. EERE-2009-BT-TP-0016-0017]

RIN: 1904-AB99

**Energy Conservation Program: Test Procedures for Fluorescent Lamp Ballasts;
Correction**

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of proposed rulemaking.

SUMMARY: The U.S. Department of Energy (DOE) proposes to amend its test procedures for fluorescent lamp ballasts. Proposed changes include adopting text at its regulations concerning test procedures for the measurement of energy and water consumption to clarify the requirement to use the test procedures in Appendix Q1 to demonstrate compliance with the new and revised energy conservation standards that apply to fluorescent lamp ballasts manufactured on or after November 14, 2014. These revisions follow the intent of the fluorescent lamp ballast test procedure final rule to support any new or revised energy conservation standards at the time those standards require compliance. This notice of proposed rulemaking (NOPR) would also correct the formula for power factor, which contained a mathematical error as adopted in that final rule.

DATES: DOE will accept comments, data, and information regarding this NOPR no later than **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. See section V, “Submission of Comments,” for details.

ADDRESSES: Any comments submitted must identify the NOPR for Test Procedures for fluorescent lamp ballasts, and provide docket number EERE-2009-BT-TP-0016-0017 and/or regulatory information number (RIN) number 1904-AB99. Comments may be submitted using any of the following methods:

1. Federal eRulemaking Portal: www.regulations.gov. Follow the instructions for submitting comments.
2. E-mail: [\[FLB-2009-TP-0016@ee.doe.gov\]](mailto:FLB-2009-TP-0016@ee.doe.gov) Include the docket number and/or RIN in the subject line of the message.
3. Mail: Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE-5B, 1000 Independence Avenue, SW., Washington, DC, 20585-0121. If possible, please submit all items on a CD. It is not necessary to include printed copies.
4. Hand Delivery/Courier: Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 950 L’Enfant Plaza, SW., Suite 600, Washington, DC, 20024. Telephone: (202) 586-2945. If possible, please submit all items on a CD. It is not necessary to include printed copies.

For detailed instructions on submitting comments and additional information on the rulemaking process, see section V of this document (Submission of Comments).

Docket: The docket, which includes Federal Register notices, comments, and other supporting documents/materials, is available for review at [regulations.gov](http://www.regulations.gov). All documents in the docket are listed in the [regulations.gov](http://www.regulations.gov) index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available.

A link to the docket web page can be found at:

http://www1.eere.energy.gov/buildings/appliance_standards/product.aspx/productid/62. This web page will contain a link to the docket for this notice on the [regulations.gov](http://www.regulations.gov) site. The [regulations.gov](http://www.regulations.gov) web page will contain simple instructions on how to access all documents, including public comments, in the docket. See section V for information on how to submit comments through [regulations.gov](http://www.regulations.gov).

For further information on how to submit a comment or review other public comments and the docket, contact Ms. Brenda Edwards at (202) 586-2945 or by email:

Brenda.Edwards@ee.doe.gov.

FOR FURTHER INFORMATION CONTACT:

Ms. Lucy deButts, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE-5B, 1000 Independence Avenue, SW., Washington, DC, 20585-0121. Telephone: (202) 287-1604. E-mail:

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I. Authority and Background

Title III, Part B¹ of the Energy Policy and Conservation Act of 1975 (“EPCA” or, “the Act”), Pub. L. 94-163 (42 U.S.C. 6291-6309, as codified) sets forth a variety of provisions designed to improve energy efficiency and established the “Energy Conservation Program for Consumer Products Other Than Automobiles.”² These include fluorescent lamp ballasts, the subject of this NOPR. (42 U.S.C. 6292(a)(13))

¹ For editorial reasons, upon codification in the U.S. Code, Part B was redesignated as Part A.

² All references to EPCA refer to the statute as amended through the American Energy Manufacturing Technical Corrections Act (AEMTCA), Pub. L. 112-210 (Dec. 18, 2012).

Under EPCA, the energy conservation program consists essentially of four parts: (1) testing, (2) labeling, (3) Federal energy conservation standards, and (4) certification and enforcement procedures. The testing requirements consist of test procedures that manufacturers of covered products must use as the basis for (1) certifying to the Department of Energy (DOE) that their products comply with the applicable energy conservation standards adopted under EPCA, and (2) making representations about the efficiency of those products. Similarly, DOE must use these test procedures to determine whether the products comply with any relevant standards promulgated under EPCA.

DOE published a test procedure final rule on May 4, 2011 (hereafter the “May 2011 test procedure final rule”) establishing revised active mode test procedures. 76 FR 25211. The May 2011 test procedure final rule established appendix Q1 to subpart B of 10 CFR part 430. DOE also published a final rule adopting new and revised energy conservation standards for fluorescent lamp ballasts on November 14, 2011 (hereafter the “November 2011 standards final rule”), which completed the second energy conservation standard rulemaking required under 42 U.S.C. 6295(g)(7). 76 FR 70548. The November 2011 standards final rule established the regulations located at 10 CFR 430.32(m)(8)-(10).

II. Summary of the Notice of Proposed Rulemaking

DOE discovered an error in the formula for power factor located in 10 CFR part 430, subpart B, Appendix Q1. DOE proposes to correct that formula. DOE also proposes to update 10 CFR 430.23 to reflect the requirement to determine compliance with the November 2014

standards by testing conducted in accordance with Appendix Q1. This revision follows the intent of the May 2011 test procedure final rule to support any new or revised energy conservation standards at the time those standards require compliance. 76 FR 25211, 25213 (May 4, 2011). DOE notes that it intends to publish a NOPR in the near future to clarify several additional issues raised by stakeholders concerning the applicability and requirements of the energy conservation standards and test procedures for fluorescent lamp ballasts.

III. Discussion

In the November 2011 standards final rule, DOE amended existing energy conservation standards and adopted standards for additional ballasts. 76 FR 70548. The new and amended standards were based on ballast luminous efficiency (BLE) and apply to all products listed in the table of BLE standards, codified at 10 CFR 430.32(m)(8)(iii)(C). DOE requires compliance with these BLE standards beginning November 14, 2014.

DOE proposes to revise 10 CFR 430.23 to clarify the requirement to use the test procedures in Appendix Q1 to demonstrate compliance with the new and revised energy conservation standards that apply to fluorescent lamp ballasts manufactured on or after November 14, 2014, codified at 10 CFR 430.32(m)(8)–(10). These revisions follow the intent of the May 2011 test procedure final rule that new Appendix Q1 is to support the new and revised energy conservation standards adopted in the November 2011 standards final rule. DOE did not include these revisions at the time of the May 2011 test procedure final rule because the standards and associated compliance date of the subsequent standards final rule were not yet

known. DOE also proposes to revise Appendix Q1 to correct an error in the formula for calculating power factor as adopted in the May 2011 test procedure final rule.

In any rulemaking to amend test procedures, DOE must determine to what extent, if any, the proposed test procedures would alter the measured energy efficiency of any covered products as determined under the existing test procedures. (42 U.S.C. 6293(e)(1)) If DOE determines that the amended test procedures would alter the measured efficiency of covered products, DOE must amend the applicable energy conservation standard accordingly. (42 U.S.C. 6293(e)(2)) Because the changes proposed in this NOPR simply provide clarification, these revisions do not alter the measured energy efficiency of the covered products measured by this test procedure.

IV.Procedural Issues and Regulatory Review

A. Review Under Executive Order 12866

The Office of Management and Budget (OMB) has determined that test procedure rulemakings do not constitute “significant regulatory actions” under section 3(f) of Executive Order 12866, Regulatory Planning and Review, 58 FR 51735 (Oct. 4, 1993). Accordingly, this action was not subject to review under the Executive Order by the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget.

B. Review under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 et seq.) requires preparation of an initial regulatory flexibility analysis (IFRA) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant

economic impact on a substantial number of small entities. As required by Executive Order 13272, “Proper Consideration of Small Entities in Agency Rulemaking,” 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the DOE rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel’s website: <http://energy.gov/gc/office-general-counsel>.

This rulemaking clarifies existing requirements for testing and compliance with energy conservation standards and does not change the burden associated with fluorescent lamp ballast regulations on any entity large or small. Therefore, DOE has determined that this rulemaking would not have a significant economic impact on a substantial number of small entities.

Accordingly, DOE has not prepared a regulatory flexibility analysis for this rulemaking. DOE’s certification and supporting statement of factual basis will be provided to the Chief Counsel for Advocacy of the Small Business Administration (SBA) for review under 5 U.S.C. 605(b). DOE certifies that this rule would have no significant impact on a substantial number of small entities. DOE seeks comment regarding whether this proposed rule would have a significant economic impact on any small entities.

C.Review Under the Paperwork Reduction Act of 1995

Manufacturers of fluorescent lamp ballasts must certify to DOE that their products comply with any applicable energy conservation standards. In certifying compliance, manufacturers must test their products according to the DOE test procedures for fluorescent lamp

ballasts, including any amendments adopted for those test procedures. DOE has established regulations for the certification and recordkeeping requirements for all covered consumer products and commercial equipment, including fluorescent lamp ballasts. (76 FR 12422 (March 7, 2011)). The collection-of-information requirement for the certification and recordkeeping is subject to review and approval by OMB under the Paperwork Reduction Act (PRA). This requirement has been approved by OMB under OMB control number 1910-1400. Public reporting burden for the certification is estimated to average 20 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

D.Review Under the National Environmental Policy Act of 1969

In this notice, DOE proposes amendments to the test procedures for fluorescent lamp ballasts. DOE has determined that this rule falls into a class of actions that are categorically excluded from review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and DOE's implementing regulations at 10 CFR part 1021. Specifically, this proposed rule would amend the test procedures without affecting the amount, quality or distribution of energy usage, and, therefore, would not result in any environmental impacts. Thus, this rulemaking is covered by Categorical Exclusion A5 under 10 CFR part 1021, subpart D, which applies to any

rulemaking that interprets or amends an existing rule without changing the environmental effect of that rule. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

E. Review Under Executive Order 13132

Executive Order 13132, “Federalism,” 64 FR 43255 (August 4, 1999) imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have Federalism implications. The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have Federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. DOE has examined this proposed rule and has determined that it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of today’s proposed rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297(d)) No further action is required by Executive Order 13132.

F. Review Under Executive Order 12988

Regarding the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, “Civil Justice Reform,” 61 FR 4729 (Feb. 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; (3) provide a clear legal standard for affected conduct rather than a general standard; and (4) promote simplification and burden reduction. Section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in sections 3(a) and 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, the proposed rule meets the relevant standards of Executive Order 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Pub. L. No. 104-4, sec. 201 (codified at 2 U.S.C. 1531). For a proposed regulatory action likely to result in a rule that may cause the expenditure by State, local, and

Tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a proposed “significant intergovernmental mandate,” and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820; also available at <http://energy.gov/gc/office-general-counsel>. DOE examined this proposed rule according to UMRA and its statement of policy and determined that the rule contains neither an intergovernmental mandate, nor a mandate that may result in the expenditure of \$100 million or more in any year, so these requirements do not apply.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105-277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630

DOE has determined, under Executive Order 12630, “Governmental Actions and Interference with Constitutionally Protected Property Rights” 53 FR 8859 (March 18, 1988), that this regulation would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

J. Review Under Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB’s guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE’s guidelines were published at 67 FR 62446 (Oct. 7, 2002). DOE has reviewed this proposed rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,” 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OMB, a Statement of Energy Effects for any proposed significant energy action. A “significant energy action” is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that: (1) is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (3) is designated by the

Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

This regulatory action to amend the test procedures for fluorescent lamp ballasts is not a significant regulatory action under Executive Order 12866. Moreover, it would not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as a significant energy action by the Administrator of OIRA. Therefore, it is not a significant energy action, and, accordingly, DOE has not prepared a Statement of Energy Effects.

L. Review Under Section 32 of the Federal Energy Administration Act of 1974

Under section 301 of the Department of Energy Organization Act (Pub. L. 95–91; 42 U.S.C. 7101), DOE must comply with section 32 of the Federal Energy Administration Act of 1974, as amended by the Federal Energy Administration Authorization Act of 1977. (15 U.S.C. 788; FEAA) Section 32 essentially provides in relevant part that, where a proposed rule authorizes or requires use of commercial standards, the notice of proposed rulemaking must inform the public of the use and background of such standards. In addition, section 32(c) requires DOE to consult with the Attorney General and the Chairman of the Federal Trade Commission (FTC) concerning the impact of the commercial or industry standards on competition.

The proposed rule does not revise the existing incorporation of industry standards regarding fluorescent lamp ballasts. Therefore, DOE concludes that the requirements of section

32(b) of the FEAA, (i.e., that the standards were developed in a manner that fully provides for public participation, comment, and review) do not apply to this rulemaking.

V. Submission of Comments

DOE will accept comments, data, and information regarding this proposed rule no later than the date provided in the DATES section at the beginning of this proposed rule. Interested parties may submit comments using any of the methods described in the ADDRESSES section at the beginning of this NOPR.

Submitting comments via regulations.gov. The regulations.gov web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to regulations.gov information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (CBI)). Comments submitted through regulations.gov cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through regulations.gov before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that regulations.gov provides after you have successfully uploaded your comment.

Submitting comments via email, hand delivery, or mail. Comments and documents submitted via email, hand delivery, or mail also will be posted to regulations.gov. If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information on a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via mail or hand delivery, please provide all items on a CD, if feasible. It is not necessary to submit printed copies. No facsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, written in English and free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. According to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery two well-marked copies: one copy of the document marked confidential including all the information believed to be confidential, and one copy of the document marked non-confidential with the information believed to be confidential deleted. Submit these documents via email or on a CD, if feasible. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include: (1) A description of the items; (2) whether and why such items are customarily treated as confidential within the industry; (3) whether the information is generally known by or available from other sources; (4) whether the information has previously been made available to others without obligation concerning its confidentiality; (5) an explanation of the competitive injury to the submitting person which would result from public disclosure; (6) when such information might lose its confidential character due to the passage of time; and (7) why disclosure of the information would be contrary to the public interest.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

VI.

Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this proposed rule.

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Intergovernmental relations, Small businesses.

Issued in Washington, DC, on October 14, 2014.

Kathleen B. Hogan
Deputy Assistant Secretary for Energy Efficiency
Energy Efficiency and Renewable Energy

For the reasons stated in the preamble, DOE is proposing to amend part 430 of Chapter II of Title 10, Code of Federal Regulations as set forth below:

PART 430 - ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

1. The authority citation for part 430 continues to read as follows:

Authority: 42 U.S.C. 6291-6309; 28 U.S.C. 2461 note.

2. Section 430.23 is amended by revising paragraph (q) to read as follows:

§430.23 **Test procedures for the measurement of energy and water consumption.**

* * * * *

(q) Fluorescent Lamp Ballasts. (1) Calculate the estimated annual energy consumption (EAEC) for fluorescent lamp ballasts, expressed in kilowatt-hours per year, by multiplying together the following values:

(i) The input power in kilowatts measured in accordance with section 2.5.1.6 of Appendix Q1 to this part; and

(ii) The representative average use cycle of 1,000 hours per year. Round the resulting product to the nearest kilowatt-hour per year.

(2) Calculate ballast luminous efficiency (BLE) using section 2.6.1 of Appendix Q1 to this subpart.

(3) Calculate the estimated annual operating cost (EAOC) for fluorescent lamp ballasts, expressed in dollars per year, by multiplying together the following values:

(i) The representative average unit energy cost of electricity in dollars per kilowatt-hour as provided by the Secretary,

(ii) The representative average use cycle of 1,000 hours per year, and

(iii) The input power in kilowatts measured in accordance with section 2.5.1.6 of appendix Q1 to this part. Round the resulting product to the nearest dollar per year.

* * * * *

3. Appendix Q1 to subpart B of part 430 is amended by revising section 2.6.2 to read as follows:

Appendix Q1 to Subpart B of Part 430—Uniform Test Method for Measuring the Energy Consumption of Fluorescent Lamp Ballasts

* * * * *

2.6.2. Calculate Power Factor (PF).

$$PF = \frac{P_{\text{input}}}{P_{\text{output}} \times \text{Efficiency}}$$

Where: Input power is determined in accordance with section 2.5.1.6, input voltage is determined in accordance with section 2.5.1.7, and input current is determined in accordance with section 2.5.1.8.

* * * * *

[FR Doc. 2014-24985 Filed 10/20/2014 at 8:45 am; Publication Date: 10/21/2014]